

**U.S. Pat. Appl. Ser. No. 10/600,853
Attorney Docket No. 10191/3107
Reply to Final Office Action of September 14, 2005**

REMARKS

Claims 1 to 19 are now pending.

It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

Applicants thank the Examiner for considering the Information Disclosure Statement, 1449 paper, and cited references filed September 2, 2005.

Claims 1 to 10, 12, and 14 to 19 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,463,372 (the “Yokota” reference).

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(e), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See Scripps Clinic & Research Foundation v. Genentech, Inc., 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the prior Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

Claim 1 relates to a system for triggering at least one restraining device and provides for “at least one pedestrian-impact sensor for transmitting a second signal.” Claim 1 further provides for a processor “adapted to trigger the at least one restraining device as a function of a combination of [a first signal of at least one non-pedestrian-impact sensor] and [the] second signal[.]”

The Office Action asserts that the text at column 10, lines 41 to 67 of the “Yokota” reference discloses a pedestrian-impact sensor. In Applicants’ Response, filed August 8, 2005, it was explained that the referenced section does not disclose an impact sensor. For the Examiner’s convenience, Applicants restate this explanation. The referenced section provides for collision *predicting* sensors, which are not based on a contact, for example, between a vehicle and an object. The non-contact sensors *do not sense an impact* of any kind. Therefore, they are not impact-sensors. In particular, they are not pedestrian-impact sensors. Indeed, any review of the “Yokota” reference makes plain that it does not identically disclose (or even suggest) a pedestrian-impact sensor.

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Therefore, the “Yokota” reference does not identically disclose (or even suggest) each feature of claim 1 as presented, so that it does not anticipate claim 1 as presented. Claims 2 to 10, 12, and 14 to 19 ultimately depend from claim 1 and are therefore allowable for the same reasons as claim 1 as presented.

“Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant’s argument and answer the substance of it.” *M.P.E.P. § 707.07(f)*. Furthermore, in making a final rejection, any grounds of rejection “must . . . be clearly developed to such an extent that applicant may readily judge the advisability of an appeal unless a single previous Office action contains a complete statement supporting the rejection[, in which case] the final rejection may refer to such a statement and also should include a rebuttal of any arguments raised in the applicant’s reply.” *M.P.E.P. § 706.07(a)*.

In the Response to Arguments section of the Final Office Action, the Office Action summarily dismisses the explanations regarding the collision predicting sensors of col. 10, lines 41-67, and conclusorily asserts that the “Examiner disagrees because the very argued limitation is found in Yokota’s col. 10, lines 41-67.” The Office Action does not address the substance of the explanations that the collision predicting sensors of the referenced section do not sense an impact, but rather determines that there is a high probability of a collision in the near future.

It is respectfully requested that the finality of this Office Action be withdrawn in view of the Office Action’s failure to address the explanations presented in the Response, filed August 8, 2005. It is requested that the next Office Communication address the explanations in the Response filed August 8, 2005, and reproduced above.

Furthermore, the Office Action presents contradictory statements. First the Office Action refers to element 10 of the “Yokota” reference as disclosing the non-pedestrian-impact sensor, but then refers to col. 10, lines 41-67, which refer to element 10, as disclosing a pedestrian-impact sensor. Clarification of these contradictory assertions is therefore requested.

Claim 11 was rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of the “Yokota” reference and U.S. Patent No. 6,487,482 (the “Mattes” reference).

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Claim 11 ultimately depends from claim 1 and is therefore allowable for essentially the same reasons as claim 1, since any review of the secondary reference makes plain that it does not cure the critical deficiencies of the primary reference, as explained above.

Claim 13 was rejected under 35 U.S.C. § 103(a) as unpatentable over the “Yokota” reference.

Claim 13 ultimately depends from claim 1 and is therefore allowable for essentially the same reasons as claim 1.

As further regards all of the obviousness rejections, to reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Since the references relied upon do not disclose or suggest all of the features of claims 11 and 13 as explained above, it is respectfully submitted that claims 11 and 13 are allowable.

Accordingly, claims 1 to 19 are allowable.

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Conclusion

In view of the foregoing, it is believed that the rejections have been obviated, and that claims 1 to 19 are allowable. It is therefore respectfully requested that the rejections be withdrawn, and that the present application issue as early as possible.

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Respectfully submitted,
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